

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

VICTORIA PEREZ RUIZ,	:	
	:	
Plaintiff(s),	:	Civil Action No.
	:	
v.	:	
	:	
BJ'S WHOLESALE CLUB, INC.,	:	
	:	
Defendant.	:	
	:	
	:	

**DEFENDANT BJ'S WHOLESALE CLUB, INC.'S
NOTICE OF REMOVAL**

Defendant BJ's Wholesale Club, Inc. (hereinafter referred to as "BJ's" or "Defendant") files this Notice of Removal pursuant to 28 U.S.C. §1441(a) and (b) to remove this action from the Superior Court of New Jersey, Law Division, Essex County, where it is now pending, to the United States District Court for the District of New Jersey. Defendant, in support thereof, states as follows:

1. A Civil Action has been brought against Defendant by the Plaintiff Victoria Perez Ruiz (hereinafter referred to as "Plaintiff") and is pending in the Superior Court of New Jersey, Law Division, Essex County, docket number ESX-L-2817-22. A copy of Plaintiff's Complaint is attached hereto as Exhibit "A".
2. The State Court wherein this action was originally filed is located in Essex County, New Jersey, which is embraced within this jurisdictional district.
3. Removal from the Superior Court of New Jersey Law Division, Essex County is proper under 28 U.S.C. §§1441(a) and (b), which authorizes the removal of any civil action of which the District Courts of the United States has original jurisdiction and if "none of the

parties in interest properly joined and served as a defendant is a citizen of the state in which such action is brought.” (emphasis added).

4. This Court has original jurisdiction over the subject matter under 28 U.S.C. §1332 as the parties in interest properly joined and served are citizens of different states, and the matter in controversy exceeds \$75,000.00 as set forth below.
5. Specifically, in the alleged accident that is the subject of Plaintiff’s Complaint, Plaintiff claims that on March 4, 2022, as a result of the recklessness, carelessness and negligence of the Defendant, she was caused to sustain serious and permanent personal injuries, extreme pain and suffering and the necessity to spend large sums of money for medical aid and attention and lost wages. See Exhibit “A”, Count One, ¶6 and ¶8.
6. Plaintiff also demands judgment against Defendant, for damages, interest, costs of suit, and attorney’s fees. See Exhibit “A”, Wherefore Clause.
7. Further, upon investigation/discovery of this matter, Defendant has learned that the permanent injuries that Plaintiff claims as a result of the alleged March 4, 2022 incident was a lower extremity injury which required surgery.
8. In order to clarify the amount of damages at issue, Defendant served Plaintiff with a stipulation to limit damages to \$75,000, and advised that if this was not signed, Defendant would remove this matter to the Federal Court. See correspondence from counsel for Defendant, attached as Exhibit “B”.
9. To date, Plaintiff has failed and refused to sign and return the Stipulation to Limit Damages to \$75,000.
10. As such, based on the serious and permanent personal injury claims, including alleged surgery claims, significant medical treatment and lost earnings that Plaintiff claims have

resulted from the negligence, carelessness and recklessness of Defendants, and that Plaintiffs have refused to sign a Stipulation Limiting Damages to \$75,000, it is Defendant's position that Plaintiff is seeking an amount in excess of \$75,000 and this Court does not have to guess as to whether this Court's jurisdictional threshold has been met.

11. Additionally, removal is proper as the parties are citizens of different states as Plaintiff is a citizen of New Jersey and Defendant BJ's Wholesale Club, Inc., is a Delaware corporation with a principal place of business in Massachusetts.
12. As such, based on the serious and permanent personal injury claims, including an alleged lower extremity surgery claim, permanent disability claims, significant medical treatment and economic damages claims that Plaintiff claims have resulted from the negligence and carelessness of Defendant and that Plaintiff has refused to sign a Stipulation limiting damages to \$75,000, it is Defendant's position that Plaintiff is seeking an amount in excess of \$75,000 and this Court does not have to guess as to whether this Court's jurisdictional threshold has been met. See Exhibits "A" - "B".
13. This removal is also timely, as this case was filed on or about May 13, 2022, and was served or otherwise received by Defendant on or about May 16, 2022. This Notice of Removal is being timely filed within 30 days of service or receipt of the Complaint by Defendant, and within one year of the filing of the Complaint, pursuant to 28 U.S. Code § 1446.
14. Thus, Removal from the Superior Court of New Jersey, Law Division, Essex County is proper under 28 U.S.C. §1441(a) and (b).

15. This Court has original jurisdiction over the subject matter under 28 U.S.C. §1332 as the parties are citizens of different states, and the matter in controversy exceeds \$75,000 as set forth above. Based on Plaintiff's claims for serious and permanent personal injuries, (including alleged lower extremity surgery claims), economic damages, significant medical treatment, as well as the fact that Plaintiff has refused to sign a Stipulation Limiting Damages to \$75,000, it is Defendant's position that Plaintiff is seeking an amount in excess of \$75,000, and this Court does not have to guess as to whether Plaintiff is seeking an amount in excess of \$75,000.
16. Based on the foregoing, the requirements of 28 U.S.C. §1441(a) and (b), 1446 and 1332 have been satisfied and the within matter is properly removable.

WHEREFORE, Defendant BJ's Wholesale Club, Inc. respectfully requests that the State Action be removed from the Superior Court of New Jersey, Law Division, Essex County to the United States District Court for the District of New Jersey.

Dated: May 20, 2022

s/ *John M. McConnell*
John M. McConnell, Esquire (028152006)
GOLDBERG SEGALLA LLP
301 Carnegie Center Drive,
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609-986-1326
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Attorneys for Defendant BJ's Wholesale
Club, Inc.

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BJ'S WHOLESALE CLUB, INC.,

Defendant.

Civil Action No.

I, John M. McConnell, hereby certify that a true and correct copy of the foregoing Notice of Removal, and supporting documents, and Jury Demand were filed with the Court and served on all counsel of record via email on this 20th day of May, 2022.

Dated: May 20, 2022

s/ John M. McConnell

John M. McConnell, Esquire (028152006)
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 609-986-1326
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 Attorneys for Defendant BJ's Wholesale
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PLEASE TAKE NOTICE that the undersigned counsel hereby enters an appearance as counsel of record on behalf of Defendant BJ's Wholesale Club, Inc. in the above-entitled action.

PLEASE TAKE FURTHER NOTICE that copies of all papers served in this matter should be served upon the undersigned.

Dated: May 20, 2022

s/ *John M. McConnell*

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PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 38, the Defendant BJ's Wholesale Club, Inc. hereby demands a Jury trial in this matter, on all issues triable by jury.

Dated: May 20, 2022

s/ *John M. McConnell*

John M. McConnell, Esquire (028152006)

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